IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 3204 of 2005

Between:

1 M/s Hotel Nagavali (a concern of M/s Kameswari Hotels Pvt.

Ltd), Ring Road, Srikakulam.
2 M/s Hotel Nagavali, Rep. by its Managing Director,
V. Govinda Rajulu S/o Late V. Rama Rao, Age 67 years, R/o

Ring Road, Srikakulam. **..... PETITIONERS**

AND

1 Nagi Reddy, IPS,
Srikakulam District.
2 The Superintendent of Police, Srikakulam, Srikakulam District.
3 The Director General of Police, A.C. Guards, Hyderabad.
4 The Principal Secretary, Department of Home, Secretariat

Buildings, Hyderabad.
5 The Principal Secretary, Department of Municipal

Administration &Urban Development, Secretariat Buildings,

Hyderbad.
6 The Commissioner, Srikakulam Municipality, Srikakulam

District. **.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to declare that the action on the part of the first respondent in locking the Southern side gate of the petitioner hotel is arbitrary illegal and unsustainable and also against G.O.Ms.No. 264 MA, dated 19-7-2004 issued by the fifth respondent and thereby declare that the action on the part of the first respondent is abuse of power and official position in the interests of Justice and equity and pass such further or other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioners: MR.SAMINENI KISHORE

Counsel for Respondents 1 to 4: GP FOR HOME

Counsel for Respondent No.5: G.P. for Municipal Administration.

Counsel for Respondent No.6: Mr.Nageshwar Reddy

The Court at the stage of admission made the following ORDER:

The first petitioner is the 3-Star Hotel at Srikakulam. It was constructed in the year 1991. With a view to have an access to a nearby road, it needed an extent of 293 Sq.yards in TS No.254, which was held by Srikakulam Municipality. On a representation submitted by the petitioners to the sixth respondent, the assent of the Municipality was communicated through letter dated 09.01.2004. Since the approval of the Government was necessary for alienation and for other consequential steps, the matter was taken up with the Government. Through G.O.Ms.No.264, Municipal Administration & Urban Development (J1) Department, dated 19-07-2004, the fifth respondent accorded permission and approval for transfer of the said 293 Sq.yards of land as well as to open a gate on the southern side of the hotel.

The petitioners state that on the basis of the permission so accorded, a gate has been opened on the southern side and the Hotel is functioning without causing any disturbance or inconvenience to any individual or institution. The petitioners complain that the Superintendent of Police, the second respondent, directed orally the closure of the gate and on account of the same, they are facing hardship and the business virtually came to a stand still.

Heard the learned counsel for the petitioners, the learned Government Pleader for Home and Sri S.Nageshwar Reddy, the learned standing counsel for the sixth respondent.

The petitioners had urged several contentions touching on the merits. Certain allegations are also made personally against the second respondent by impleading him by name as the first respondent. This Court is not inclined to deal with such contentions.

There is no allegation that the petitioners had constructed the Hotel without any permission. A perusal of the G.O.Ms.No.264, dated 19-07-2004 clearly discloses that the sixth respondent expressed its no objection for opening a gate on southern side and based on the same, the Government had accorded approval and permission.

The relevant paragraph reads as under:

> "After careful examination of the issue and in view of the circumstances stated by the Municipal Commissioner, Srikakulam, Government hereby accord permission to the Municipal Council, Srikakulam Municipality to allow M/s Hotel Nagavali, Srikakulam to open the Southern side gate of their hotel."

Once it emerges that the petitioners constructed the hotel and opened the gate with necessary approval from the authorities concerned, it cannot be directed to be closed, that too, without there being any written order. If the second respondent is facing any inconvenience or security concerns on account of opening of the gate on southern side, the petitioners had to put on notice and necessary steps are to be taken in accordance with law. There cannot be any direction for closure of a gate without there being any written order.

Hence, the writ petition is disposed of directing that the respondents shall not interfere with the operation of the gate on southern side of the hotel, except by initiating necessary proceedings. If there is any lock to the gate, it shall be removed forthwith. No order as to costs.

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23.02.2005

Note:

Issue CC by tomorrow.

(BO)

kdl

To

1 Nagi Reddy, IPS,
Srikakulam District.
2 The Superintendent of Police, Srikakulam, Srikakulam District.
3 The Director General of Police, A.C. Guards, Hyderabad.
4 The Principal Secretary, Department of Home, Secretariat

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23-02-2005